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IN THE UNITED STATES DISTRICT COURT
2
FOR THE DISTRICT OF COLUMBIA3
United States of America,) Criminal
4
Plaintiff,) No. 17-201
5
vs.)
6
PAUL JOHN MANAFORT, JR.) Bond Review Hearing
7
RICHARD W. GATES, III,)
8
Defendants.) Washington, DC
9
November 6, 2017
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Time: 9:30 a.m.
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129
TRANSCRIPT OF BOND REVIEW HEARING
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HELD BEFORE
11
THE HONORABLE JUDGE AMY BERMAN JACKSON
12
UNITED STATES DISTRICT JUDGE13
A P P E A R A N C E S14
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9 ALSO PRESENT: Andre Sidbury, Pretrial Officer
10 Omer Meisel, Special Agent

11
12 Court Reporter: Janice E. Dickman, RMR, CRR
13 Official Court Reporter
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1 THE COURTROOM DEPUTY: Your Honor, this morning we
2 have criminal case number 17-201, the United States of
3 America versus Paul Manafort, Jr., and Richard Gates, III.
4 Both Mr. Manafort and Mr. Gates are present in the courtroom.

5 Will counsel for the parties please approach the
6 lectern and identify yourself for the record and the party
7 that you represent.

8 MR. ANDRES: Good morning, Your Honor. Greg
9 Andres. Andrew Weissmann, Kyle Freeny for the special
10 counsel is with us. And with us at our counsel table is
11 Supervisory Special Agent Omer Meisel.

12 THE COURT: Good morning.

13 MR. WU: Good morning, Your Honor. Shanlon Wu on
14 behalf of Mr. Gates, who's present.

15 MR. DOWNING: Good morning. Kevin Downing for Mr.
16 Manafort.

17 THE COURT: Good morning.

18 MR. ZEHNLE: Good morning. Thomas Zehnle on
19 behalf of Mr. Manafort.

20 | THE COURT: Good morning, everyone.

21 I appreciate all the pleadings that were filed
22 over the weekend. I've reviewed all of them. I also got a
23 fair number of motions for extension of time over the
24 weekend, all of which were perfectly understandable. I
25 realize we're trying to do many things on a fast track here,

1 but the reason for that is the parties asked me to do it on
2 a fast track.

3 Last Thursday counsel for Mr. Manafort told me he
4 was prepared to file a bond motion that day, so I set a date
5 for a response and scheduled a hearing for this morning.
6 And counsel actually asked me to accelerate the process,
7 have the hearing on Friday but then I didn't even get the
8 bond motion until Saturday. And as I will explain in a few
9 minutes, it didn't contain the necessary filings.

10 Counsel also asked me to set an April trial date.
11 But I realize I didn't have any information about how long
12 is this trial going to be, what kind of motions practice am
13 I going to need to bake into the schedule. So, I issued a
14 minute order telling the parties, you know, can you give me
15 your predictions about those things.

16 Defendant Gates quite reasonably responded: I
17 don't know, I haven't even seen the discovery yet. I need
18 more time before I can answer those questions. And I
19 certainly recognize and respect that the defendants are not
20 in a position to make predictions about what they need to do
21 because they haven't even seen the discovery yet.

22 So, I went ahead and crafted a schedule based on
23 the assumption that motions would be filed, which was
24 confirmed by defendant Manafort's submission. But one
25 question I want to talk about before we talk about a trial

1 date is whether we should set a trial date now in accordance
2 with that schedule or hold a status conference after the
3 discovery has been provided.

4 Does either one of defense counsel have a position
5 about that? Then I'm going ask the government some questions.

6 MR. ANDRES: Yes, Your Honor.

7 THE COURT: You can start.

8 MR. ANDRES: Judge, if I can take a crack at that,
9 just because we've had the opportunity to discuss. And
10 actually, we're going to propose exactly that, which was to
11 ask for a status conference in approximately five weeks, at
12 which point we could address the issue about a trial date
13 and all the scheduling, and the expectation by that time the
14 discovery will be substantially finished.

15 So having discussed with counsel for Mr. Manafort
16 and Mr. Gates, we would request a status conference in,
17 again, five weeks, and at that time be in a position to set
18 dates, if appropriate.

19 THE COURT: All right. Well, I think that is
20 really the sensible way to proceed. And I can assure you
21 that while I do have several criminal trials in the early
22 part of 2018, which is somewhat unusual for this Court, I
23 have enough time in my schedule that when we're ready to set
24 a trial, we're going to be able to set one with dispatch.

25 One question I have for the government is the

1 indictment is certainly very detailed about bank accounts
2 and transfers and expenditures. Is there any reason why the
3 Rule 16 materials can't be produced right away?

4 MR. ANDRES: Judge, we're in the process of doing
5 that. So that you understand our process, a lot of those
6 documents are electronic, so we are having them Bates
7 stamped. Our plan is to produce the material, which
8 obviously is substantial, as Your Honor knows from our
9 complex case designation. We're planning on making rolling
10 productions and doing those on a disk drive, effectively, so
11 we can just hand it over to the defense. And we can
12 certainly prioritize some of the bank records.

13 Some of the bank records the defendants have
14 because they produced them themselves. But we'll certainly
15 prioritize that material and move as quickly as we can to
16 produce that discovery.

17 THE COURT: All right.

18 MR. ANDRES: Just on that -- sorry, Judge. The
19 one other issue with respect to that is we've been in
20 discussions with defense counsel about submitting a
21 protective order for discovery. And we have the consent of
22 both parties, of both Mr. Gates and Mr. Manafort to file
23 that unopposed, which we'll do today. And that will help us
24 expedite the discovery process.

25 THE COURT: Any consent motions I get for

1 protective orders I usually sign very quickly, so that
2 shouldn't be a problem.

3 Do I have anything scheduled for December 11, Mr.
4 Haley?

5 THE COURTROOM DEPUTY: One second, Your Honor.

6 (Off-the-record discussion between Court and
7 Courtroom Deputy.)

8 THE COURT: How about December 11 at 9:30 in the
9 morning for a subsequent status conference in this case?
10 Does that work for everyone?

11 MR. ANDRES: That's fine for the government.

12 MR. WU: That's fine for Mr. Gates.

13 MR. DOWNING: That's fine.

14 THE COURT: One thing I want to note is whether it
15 makes sense for the parties to meet and confer and possibly
16 come up with a discovery schedule that includes not only the
17 documents we were talking about before, but things like the
18 FBI 302s, expert reports, if there are going to be experts,
19 grand jury transcripts, rather than my attempting to
20 generate a schedule in a vacuum. So perhaps you can be
21 prepared, or at least see if you can come up with a joint
22 schedule. And if not, then we should be prepared to talk
23 about a discovery schedule at the next status conference.

24 MR. ANDRES: That's acceptable to the government,
25 Judge.

1 THE COURT: All right. Well, let's talk about,
2 then, the motions for review of conditions of release.

3 There's two pending motions. While there's no
4 D.C. Circuit precedent on the standard of review, as the
5 District Court noted in the case cited by both parties, *U.S.*
6 *versus Saani*, 557 F.Supp.2d 97, the recognized practice is
7 that the Court reviews the bond determination made by the
8 magistrate judge *de novo*.

9 So I don't think we really need to spend any more
10 time focusing on what the magistrate judge was thinking or
11 what the understanding supposedly was when she issued her
12 order. I'm writing on a clean slate. And in any event,
13 you've both presented information and proposals to me that
14 weren't before her.

15 Has everyone knows, under 18 U.S. Code § 3142(b),
16 the judge is required to release the defendant on personal
17 recognizance or upon the execution of an unsecured
18 appearance bond unless the judge determines that such
19 release will not reasonably assure the appearance of the
20 person as required or will endanger the safety of any other
21 person of the community.

22 We are not talking about dangerousness here,
23 that's not an issue. We're only talking about flight. If
24 the Court doesn't find personal recognizance in the
25 unsecured bond to be sufficient, then under subsection (c)

1 the Court shall release the defendant subject to the least
2 restrictive further condition or combination of conditions
3 that the Court reasonably determines will assure the
4 appearance of the person as required.

5 Before we address the reasonableness of conditions
6 that people are proposing, the first question to be answered
7 then is whether I should find, under § 3142(c)(1), that the
8 release described in subsection (b), that is, personal
9 recognizance and an unsecured appearance bond, will not
10 reasonably assure the appearance of either defendant as
11 required.

12 To be clear, that's just personal recognizance and
13 an unsecured appearance bond, which is essentially a promise
14 that if I break my promise to appear, well, then I'll pay
15 millions of dollars. But at that point, the promisee --
16 promisor is already gone. So there's not really much
17 assurance in that.

18 Defendant Manafort argued in his response to the
19 government's memorandum that the unsecured bond was
20 sufficient, but his bond review motion offers to pledge
21 assets and to provide a security. So, do you want to be
22 heard on that preliminary question, or do you concede that
23 more conditions are necessary? And you don't have to
24 concede it, it's up to you.

25 MR. DOWNING: Thank you, Your Honor. I believe in

1 order to expedite the situation, we're in discussions with
2 the government to come up with a surety package. And I
3 think by this afternoon we will have provided them with the
4 information they need.

5 So we are happy to proceed at this time under such
6 agreement of a surety being posted, with co-surety signing,
7 along with properties being pledged.

8 THE COURT: All right. With respect to Mr. Gates,
9 is it still your position that release under subsection (b)
10 would be sufficient?

11 MR. WU: Your Honor, it is. But also in footnote
12 4 of our original notion, I let the Court know we are
13 engaged in active discussions with the government. We have
14 continued those. We are also very close to preparing a
15 surety package. It would include the pledging of real
16 estate assets, co-signers, including his parents, as well as
17 his brother.

18 And so I think we're very close on that point. If
19 the Court were to rule in our favor, that personal
20 recognition is fine, I'm certainly not going to object to
21 that. But just for your knowledge, we are in discussions
22 with the government and we hope to move very quickly to a
23 satisfactory surety package.

24 THE COURT: All right. I think that it's going to
25 be necessary for me to make all the predicate findings for

1 the record. We have a motion, first filed by defendant
2 Gates. The current release conditions are home confinement
3 with GPS monitoring and the unsecured appearance bond of
4 \$5 million. In other words, he hasn't posted bond, he just
5 signed an agreement to pay it. Docket 21 is his motion to
6 modify those conditions. He asked me to revoke the order.
7 Meaning, I presume, the order that he be subject to home
8 confinement.

9 MR. WU: That's correct.

10 THE COURT: And he asked for permission to travel
11 nationally and internationally and makes no financial
12 proposal; does assert that the unsecured bond is adequate,
13 but there are other discussions going on.

14 I have a few questions. The only employment
15 information offered to me is a vague statement that he is a
16 consultant. That could mean many things. So I wondered if
17 you could tell me a little bit about the nature of his
18 business. Does he work from an office? Does he work from
19 his house? Is his business incorporated? Where? Does it
20 have bank accounts? Where?

21 MR. WU: Court's indulgence.

22 (Off-the-record discussion between Mr. Wu and
23 Defendant Gates.)

24 MR. WU: Your Honor, the consulting business is a
25 self-employed business at the moment. He's no longer

1 employed by a company. And he primarily works from his
2 home, but there are business locations in other cities that
3 he travels to.

4 And I want to clarify that with regard to any
5 travel that he would do, first, there's actually not any
6 likelihood there would be a need for international travel in
7 the near future. And domestically, we absolutely would be
8 happy to make arrangements and notification to the pretrial
9 services on an as-needed basis.

10 For example, there are some business meetings
11 coming up this week, which ultimately we hope the Court
12 might allow him to work an arrangement, as the Court did for
13 this weekend when he had family members to attend to, to
14 notify pretrial services of where and when he needs to go,
15 so that time could be allotted, if the monitoring is not
16 lifted.

17 THE COURT: I'm certainly very disinclined to
18 permit international travel. And if we end up with the
19 financial security that we're talking about, I feel
20 differently about travel within the United States, as long
21 as it's approved in advance.

22 But just in terms of all the findings I have to
23 make, do you disagree with the preliminary guideline
24 calculation that was in the government's memorandum that
25 would put him at a level 32 for guideline purposes?

MR. WU: No, we're not quarreling with any of the potential penalties or guidelines calculations.

THE COURT: And at this point, you did mention your possible negotiations with the government. Have you specifically proposed any assets or surety for their consideration?

MR. WU: Yes, we have, Your Honor. And those specific assets are the real estate, the house that Mr. Gates owns. In addition to that, also pledging the value of life insurance policies. And for both of those, we're in the steps of having appraisals done for the house, for documents to reflect that, as well as documents to reflect any equity, as well as relevant documents to identify the life insurance policies and what value they may have.

And the third prong of that is there are personal guarantors going to sign on to guarantee whatever financial aspect need to be guaranteed, and those would include his parents and his wife.

THE COURT: All right. One thing people should be aware of is there are instructions and forms, I believe, available through the clerk's office of what is needed. If assets are pledged, there has to be an application to pledge. Real estate, there have to be deeds of trust executed. It's a fairly complex procedure that I expect counsel to comply with.

With respect to life insurance policies, the policies may or may not permit that. So you need to ascertain that it is appropriate under the terms of the policies. Mr. Manafort talked about policies that may be held in trust. And those have a lot of restrictions. The trustees have to permit it and, plus, I think some of these policies are subject to forfeiture anyway under the indictment. And so I'm not sure those are appropriately used as security. So, a lot of these details need to be nailed down.

11 Is the house in Richmond encumbered with a mortgage?

12 MR. WU: Yes, it is, Your Honor. And that's part
13 of the documentation, to determine how much equity is in the
14 house.

15 THE COURT: All right. Thank you. With respect
16 to Mr. Manafort, his release conditions right now are home
17 confinement with GPS monitoring and the unsecured appearance
18 bond of \$10 million. And he's filed a motion, docket 32, to
19 modify those release conditions. He asks to be released
20 from the home confinement and the GPS based on a pledge of
21 several pieces of property and possibly family members as
22 sureties.

1 MR. DOWNING: Your Honor, Mr. Manafort is an
2 international consultant with respect to campaigns,
3 international investing. And he does a lot of his work out
4 of New York City. And also, he does quite a bit of work
5 down in Florida. He's got a business down in Fort Lauderdale.

6 THE COURT: What's the business?

7 MR. DOWNING: It's a telecommunications business.
8 It's developing secure cell phones, and it also does make
9 them relatively or virtually indestructible. So between
10 those two, his international consulting and that business,
11 that takes him to Florida and New York on a regular basis.

16 MR. DOWNING: His clients are in New York City and
17 he has a residency in New York City. And I apologize for
18 not explaining the telecommunications business in more detail.

22 MR. DOWNING: I believe we did ask for that.

23 THE COURT: I'm not sure. I noted New York. But
24 the government said it didn't have a problem with Florida.

25 All right. So those are the questions I have for

1 | you.

2 I have some questions for the government. I was
3 not initially inclined to permit a family member to serve as
4 a surety or to permit travel out of the D.C. area without
5 permission. And while I was prepared to release the
6 defendants from home detention as long as they posted
7 sufficient financial security, I was planning to order that
8 they stay away from transportation facilities and to
9 continue the GPS monitoring to monitor the geographic
10 conditions and the stay-away, as well as the possible curfew.

11 So, can you explain to me why in your view none of
12 that is necessary?

13 MR. ANDRES: Sure, Judge. Just so I have all of
14 that: So the first is the issue with respect to family
15 members as sureties. The second was with respect to GPS
16 versus no GPS. And the third, I believe, was travel.

Now, clearly, if they're allowed to travel to New York, that might be a train. But Florida would probably involve an airport. So there would have to be a lot of

1 restrictions and explanations included. But you said pretty
2 strongly in your pleading, as long as they give us the
3 financial level of comfort that we're looking for, we're
4 willing to forgo GPS monitoring. And that I have juxtaposed
5 with multiple pleadings telling me what a significant flight
6 risk they are because of their international contacts and
7 their resources. So, I want to know why I shouldn't impose
8 those things.

9 MR. ANDRES: Judge, it's the government's view
10 that haven taken the defendant's passports, which we think
11 we now have, that which didn't think that the GPS monitoring
12 was necessary. There are obviously the travel restrictions.
13 We're working through a lot of these issues in terms of
14 their financial issues. Principally and probably most
15 importantly to understand what their net worth is. So we're
16 more advanced with Mr. Manafort than Mr. Gates.

17 But our understanding is that Mr. Manafort's net
18 worth is somewhere in the neighborhood of \$28 million. We
19 need to do more work on that to be clear, but that's the
20 representation that counsel has made and the package that
21 he's agreed to, which would be signed by both his wife and
22 at least one of his daughters, would be somewhere in the
23 neighborhood of \$10 million with assets up to that amount.
24 And it was the government's position that that was
25 sufficient in terms of conditions that would require him to

1 come back.

2 So that addresses both the travel issue, which we
3 think we've addressed by the taking the passports, and the
4 family issues.

5 One thing with respect to Mr. Manafort, a lot of
6 his property or a lot of the property involves other
7 entities, it involves family members. So those family
8 members would necessarily have to sign in order to pledge
9 those assets in the first place, which, again, sort of
10 necessitates family members being sureties.

11 But given our discussions to date and the amount
12 of the assets and the size of the bond, which is significant,
13 it's the government's position that that was sufficient to
14 ensure the defendant's return to court without requiring
15 GPS. As Your Honor has said, we're required to have the
16 least restrictive conditions, and as a result that's where
17 we landed.

18 THE COURT: Well, I don't have any problem --
19 obviously, it's necessary having family members cosign any
20 assets that are pledged, it's fundamental that that happen.
21 But that's different from saying, okay, instead of pledging
22 an asset to make up X dollars, I have a surety and my family
23 member is going to be my surety, that I think is a different
24 situation and that I was a little uncomfortable with because
25 an independent surety demands proof that the person has

1 something to back up what they're going to put forward to
2 the court.

3 MR. ANDRES: Right. It's really both, though,
4 Judge. It's both that they're securing the assets that are
5 being pledged, and they'll also be sureties. So both Mrs.
6 Manafort and Mr. Manafort's daughter will also be required
7 to the full extent of the bond, to the extent there's a
8 violation of the bond. So they're serving in both capacities.

17 MS. ANDRES: That's part of the process that we're
18 going through, particularly as we understand Mr. Manafort's
19 net worth, also to understand the net worth of the sureties
20 as well, that's something that we'll continue to do.

21 THE COURT: All right. So do you have an idea how
22 much longer this process is going to take?

23 MR. ANDRES: I think for Mr. Manafort, we're
24 getting close. We have the issues, and frankly, Your Honor
25 has identified all of them. With the life insurance we need

1 to understand what the value is and whether it can be
2 forfeited. We identified an issue with the Homestead Act.
3 I'm not admitted in Florida, but I know it's an issue about
4 pledging property in Florida, and then getting all the
5 paperwork done. So we're going to continue to have those
6 discussions today and we're going to try to expedite things.
7 But I think, fairly, we need at least two days, would be my
8 guess, and maybe more. But we're happy to keep the Court
9 updated as to that.

10 With Mr. Gates we're slightly further behind,
11 although I think we now understand the process well with
12 him, what he's pledging. We've been given the name of
13 family members, so we can begin to do checking on that. And
14 also we have some knowledge about his property. But those
15 discussions are not as advanced as they are with Mr.
16 Manafort. But again, we'll continue to speak to counsel to
17 get that done as quickly as we can.

18 THE COURT: Well, I very much appreciate the fact
19 that counsel are working cooperatively on everything; on
20 bond, on scheduling, on discovery. And I think that's
21 really the way to go. The more complex the case is the more
22 it's necessary.

23 I think I need to make a couple of findings today.
24 You can be seated.

25 MR. ANDRES: Thank you.

1 THE COURT: I'm going not going to set a due date
2 or schedule for this. I think it's in everyone's interest
3 to get this done as soon as possible, particularly on the
4 defense side of the courtroom. So as soon as this is done,
5 if you file something with me on paper that says it's done
6 and this is what we propose, I'll be able to rule on it very
7 quickly. I don't see the point of setting another status
8 conference to come in and tell me the status of it. I
9 expect that you'll let me know as soon as possible.

10 And if you can't come to an agreement, then the
11 defendants are welcome to put the proposal to me and see if
12 I will accept it.

13 But I do need to make a couple of findings today,
14 which I'm going to go ahead and make.

15 As I said before, under the Bail Reform Act, 18
16 U.S. Code § 3142(c), if I determine that the release
17 described in subsection (b), that is, release on personal
18 recognition or with an unsecured appearance bond will not
19 reasonably assure the appearance of the person as required,
20 I shall order the pretrial release of the person, A, subject
21 to the condition that he not commit a federal, state, or
22 local crime, and subject to the least restrictive further
23 conditions or combination of conditions that I determine
24 will reasonably ensure the appearance of the person as
25 required. And those can include any of the 13 possible

1 conditions listed in the statute, or other conditions that
2 are reasonably necessary.

3 The factor to be considered under § 3142(g), in
4 determining whether there are conditions that will
5 reasonably ensure their appearance are the nature and
6 circumstances of the charged offenses, the weight of the
7 evidence against the defendants, the history and
8 characteristics of the defendants, and the nature and
9 seriousness of the danger to any person or to the community
10 that would be posed by the defendant' release.

11 The fourth factor is not a factor here.

12 With respect to the nature and circumstances of
13 the offense, they're detailed in the indictment. The
14 probable cause finding has been made by the grand jury and
15 there have been additional unsealed findings made by the
16 chief judge. These are serious alleged offenses that would
17 expose these defendants to significant penalties.

18 Money laundering has a statutory maximum penalty
19 of 20 years. Foreign agent registry charges can go up to
20 ten years, and other charges up to five.

21 The guideline calculation as to Mr. Gates puts him
22 at a level 32 of an advisory sentencing guideline range of
23 121 to 151 months, or 10 to 12 1/2 years.

24 The defendants argue the mere fact of
25 international business dealings is not illegal. The mere

1 fact of international bank accounts, overseas corporations,
2 and international transfers are not illegal. And they point
3 out that the work that's involved in this case was completed
4 several years ago. And the government doesn't argue
5 otherwise. But they aren't indicted for having international
6 clients or for having international bank accounts. The
7 charges are that they used those mechanisms to evade
8 reporting of financial obligations imposed on people who
9 perform this kind of work. They are just charges at this
10 time. It remains to be seen if they can be proved beyond a
11 reasonable doubt.

12 But it is important to note for bond purposes that
13 the charges involve not only alleged failures to comply with
14 technical registration requirements and the creation of
15 intricate networks for the movement of funds, but also, much
16 more recent, false statements to the Department of Justice
17 investigators and even to their own lawyers handling the
18 registration issue.

19 With respect to the history and characteristics of
20 defendant Gates, he turned himself in. He has no prior
21 criminal convictions. The significant family ties to the
22 region with his wife and children in Richmond. He remained
23 in the United States while this investigation was underway.
24 But significant financial resources and international
25 connections are alleged. And there have been some highly

1 inconsistent previous filings itemizing the extent of his
2 financial holdings, and there were some questions about
3 whether he was entirely straightforward about a matter as
4 fundamental as how many passports he had at the initial
5 hearing, even though I think now we've got it down.

6 With respect to defendant Manafort, he, too,
7 turned himself in. He has no prior criminal history. He
8 returned to the United States from international travel at a
9 time he knew this investigation was underway. He also has a
10 wife who lives with him here in northern Virginia. But with
11 him even more significant international connections are
12 alleged. And when his business was described, I was told
13 he's an expert in international investing. The indictment
14 reflects considerable sophistication in finding international
15 havens for assets and transferring them around.

16 I realize that both of these cases are
17 distinguishable from the *Anderson* case and the other cases
18 mentioned by the government. But in those cases the
19 defendants were held without any bond at all. So the
20 distinctions don't militate against the less onerous
21 conditions that I would impose. And the cases recognize the
22 principle of the financial wherewithal and sophistication
23 are factors be that can be fairly considered when you assess
24 the risk of flight.

25 Considering all these factors, I find, pursuant to

1 sections (b) and (c) (1), that merely some personal
2 recognition upon execution of an unsecured appearance bond
3 will not reasonably assure the appearance of either
4 defendant and that I must impose additional conditions under
5 subsection (c) (1) (B). But the current requirement of house
6 arrest is not the least restrictive condition that will
7 accomplish that goal and, therefore, I'm prepared to modify
8 it. The problem is that I have not yet received the
9 information that I need to do it.

10 Among the non-exhaustive list of conditions that a
11 Court can consider, the critical ones are here under
12 § (c) (1) (B) (xi), which is to execute an agreement to
13 forfeit, upon failing to appear as required, property of a
14 sufficient unencumbered value as is reasonably necessary to
15 assure the appearance of the person. And under that
16 provision the defendant has to provide the Court with proof
17 of ownership and the value of the property, along with
18 information regarding existing encumbrances.

19 Another option under the Bail Reform Act is
20 subsection (xii), which permits a defendant to execute a
21 bond with solvent sureties, who will execute an agreement to
22 forfeit in such amount as is reasonably necessary to assure
23 the appearance of the person, and shall provide the Court
24 with information regarding the value of the assets and
25 liabilities of the surety if they are other than an approved

1 surety.

2 And then I'm entitled, under § (xiv), to impose
3 any other conditions that are reasonably necessary. And I
4 have a fair amount of discretion in doing that.

5 Defendant Gates has not identified, as least to
6 me, although he has begun with the government, the assets
7 that he's going to offer as a security, nor has he indicated
8 specific arrangements made with the surety, although I'm
9 glad to hear that's underway. Clearly, the government's
10 willingness to be flexible on home confinement was
11 contingent on these sorts of financial arrangements.

12 I don't have anything to go on yet with Mr. Gates.
13 Mr. Manafort, in the pleadings to me, under the time
14 constraints he was facing this weekend, identified three
15 pieces of property that he would pledge and he estimated
16 their value at a total of \$7.5 million. That's a good
17 start, but that doesn't begin to comply with subsection (xi).
18 The government opposition revealed to me that these
19 properties are encumbered by mortgages, and it offered
20 multiple reasons to question the defendant's valuation of
21 the equity.

22 I've already mentioned that I think there may be
23 some concerns with the insurance policies if they're not in
24 his name or they're held in trust. It's yet to be shown
25 that they could legally be pledged under the terms of the

1 policy or the trust. And I'm also concerned about the fact
2 that they're the same policies, some of them, that are
3 subject to the forfeiture allegations.

4 Mr. Manafort assured the Court that certain family
5 members will sign as sureties when necessary. And as I said
6 earlier, I think there's a difference between co-signing
7 your property and serving as the surety. If a family member
8 is going to serve as a surety, I think they have to comply
9 with the plain language of subsection (xii), which would
10 require that the Court be given information concerning their
11 assets and liabilities.

12 So I'm not in a position to grant either motion
13 today. We're going to have to await the provision of the
14 additional information. I can tell you that these will be
15 the conditions or combination of conditions that I'm
16 inclined to impose to secure their appearance.

17 First of all, in order to be relieved of the
18 condition of home confinement, the defendants must supply
19 either security under subsection (xi) or a surety under
20 subsection (xii), or both, for the \$10 million and \$5 million
21 appearance bonds that are now unsecured, as well as all the
22 necessary financial information.

23 To me, a family member serving as a surety is very
24 problematical. In any view, it should be at least an
25 approved surety or an independent individual or entity that

1 complies with the statutory financial disclosure
2 requirements. The government doesn't seem to object to
3 certain family members, so I'll consider it if it comes to
4 me as a joint proposal. But it will only be acceptable if
5 the information that is described in subsection (xii) is
6 provided.

7 No international travel is going to be a condition
8 of this release. And it was my inclination that the
9 condition of remaining within the D.C. area, or D.C. plus
10 Richmond for Mr. Gates, should be a part of any order.
11 Again, with the government's consent, I may view this
12 differently. But the defendants will not be permitted to
13 travel otherwise within the United States without the prior
14 permission of the Court and without prior submission to
15 pretrial where they're going and their itinerary.

16 Although I may permit New York and Florida for Mr.
17 Manafort without prior permission of the Court, as long as
18 pretrial has been advised. So, again, some of that will
19 come to me when I see what I've been provided with.

20 I was planning to order that the defendants be
21 ordered to stay away from transportation facilities,
22 including airports and private airports. If the government
23 is willing to forgo that once the financial constraints have
24 been established, I'm willing to consider giving that up.

25 And I had been planning that while I would

1 alleviate home confinement, that there would be some sort of
2 curfew in the evening and that all of that, the curfew, the
3 geographic restrictions, and the stay-away order was going
4 to be monitored by GPS. So that's where I was headed, but I
5 will keep an open mind if the government and the defense can
6 work something out that's mutually agreeable.

7 I recognize that the conditions are inconvenient
8 and it's the defense position that they're unnecessary. But
9 I was prepared to find that they are the least restrictive
10 combination of conditions that will reasonably assure that
11 the defendants appear. However, as I say, if financial
12 arrangements are made that satisfy the government, I may be
13 willing to impose a less restrictive regime.

14 So given all these findings, as I said, that's the
15 basis from which we're going to proceed. I'm not going to
16 set another date for another bond review hearing, but as
17 soon as I get something, I will review it.

18 And so, with that, I only have a couple of issues
19 regarding the form of pleadings. And I think we could
20 probably deal with that at the bench very briefly. So if I
21 could have counsel --

22 (Bench discussion:)

23 THE COURT: First, I just want to say that from
24 this point on, a motion to extend the date a pleading is
25 supposed to be filed has to be filed before the pleading is

1 supposed to be filed, otherwise what is the point? You've
2 already granted yourself the extension.

3 Second, I want to talk about the conversation we
4 had at the status conference last Thursday. Mr. Downing,
5 when I went through the fact that the government had filed a
6 memo and you filed a response, and then I said -- I issued
7 an order saying a bond review pleading has to be in writing,
8 but you only filed a response, you didn't ask for anything.
9 You stood up and said, No, in the last -- second to last
10 paragraph of my pleadings I did request relief from the bond
11 conditions.

12 But I went back and read the last sentence of your
13 pleadings. I was surprised when you said that because I
14 didn't remember it. And basically, it just says the
15 continuation of the \$10 million unsecured appearance bond,
16 subject to the condition that he not commit another crime
17 will more than suffice. So, you did intimate the bond alone
18 was sufficient, but he didn't ask to be relieved of
19 anything.

20 And the problem wasn't the form of your filing,
21 the problem was that you tried to tell me that you'd filed a
22 bond review motion when actually you hadn't. It's a subtle
23 discrepancy, it's a minor point, but just do yourself a
24 favor from this point on, this case is going to be get more
25 complicated. Don't tell me, if something says something it

1 doesn't say. In all likelihood you can count on the fact
2 that I will have read it and it doesn't -- it undercuts the
3 power of your argument and your credibility if you say, you
4 know, that you did something that you didn't do.

5 Also, on the subject of pleadings filed with the
6 Court, the prosecution filed a pleading on Thursday that
7 they called ex parte motion for post-indictment restraining
8 order. You specifically asked me to enter an order
9 concerning Mr. Manafort's assets ex parte, and offered legal
10 authority for proceeding in this manner.

11 In other words, you weren't saying we wanted to
12 consult with the defendant and then we want you to do this;
13 you asked me to do it. Sometimes judges would have just
14 signed it. I thought it was highly extraordinary for a
15 judge to be communicating ex-party with the prosecution
16 after an indictment has been filed. So I spent a fair
17 amount of time looking at the authority provided to see if
18 there was legal support to do it.

19 And since I wasn't comfortable that there was, I
20 called for the government to explain the legal basis and the
21 justification for proceeding ex parte. I took care, though,
22 to make sure that my response was properly sealed and it
23 only went to you because that's how we were communicating.
24 And then it turns out that while the pleading asks for
25 ex parte action, it actually had been filed on the public

1 docket. And so when I had my deputy clerk call you to find
2 out if a mistake had been made, you said, Oh, we meant to do
3 it, but, actually, we were planning to communicate with
4 counsel about this.

5 So, I don't understand that. What were you trying
6 to do? And why did you tell me it was ex parte if you were
7 planning to tell to them about it?

8 MR. WEISSMANN: I can discuss that. One, it was
9 not a mistake to file it. Our understanding, we had the
10 documents, but none of them were under seal. And so --
11 which I understand is unusual.

12 THE COURT: Well, if it's on the docket, it's not
13 ex parte. They get an ECF notification anytime anything is
14 filed. Right?

15 MR. WEISSMANN: But there's things that they were
16 not -- they were not entitled to. We also had no
17 objection -- we can put the purpose in. If the Court would
18 like to hear from the defendants, we have absolutely no
19 objection to that. So when we heard from the Court's deputy
20 there was an issue --

21 THE COURT: He wasn't telling you anything. All
22 he wanted to know was whether it was a mistake or not
23 mistake. I don't communicate through him other than
24 scheduling matters. But I didn't understand why you would
25 call something ex parte, ask me to do something ex parte

1 when you were perfectly willing to have it public. I don't
2 think you use the docket to send messages to each other. It
3 should be because you're asking me for relief, and if you're
4 asking me for ex parte relief, I think you have to have a
5 basis to do it.

6 And it didn't make any sense -- I've never seen an
7 ex parte pleading that wasn't sealed, because -- I mean, did
8 you get it? Did you get it from the ECF? Or did everybody
9 get it but them?

10 MR. WU: Yes.

11 THE COURT: That doesn't make any sense.

12 MR. DOWNING: I don't know the answer to that.

13 MR. WU: I believe we received it from ECF.

14 MR. ZEHNLE: We got it from ECF.

15 THE COURT: I just want everybody to take care in
16 the future. I don't know what the status of it is anymore.
17 I guess the motion is still pending, even though it's not
18 ex parte and it's not sealed anymore. But it also relates
19 to the same -- this is one of the insurance policies you're
20 talking about pledging.

21 So maybe as part of whatever you're providing to
22 me, you can let me know whether you want me to do with that,
23 whether you want me to restrain it or whether you want it to
24 be pledged to the Court.

25 So I'll hold off on ruling on the motion. But I

1 found the whole thing a little extraordinary. And certainly
2 I want to caution you, moving forward, that I would take a
3 very dim view of doing anything ex parte, unless it's
4 legally required and justified. And I thought that the
5 statute seemed to permit ex parte pre-indictment, but not
6 post-indictment. And so that was why I issued the order.
7 But you don't have to respond.

8 I think you did respond to the order anyway at
9 this point. But I don't know if there's anything further to
10 do with that, we'll just wrap it up on the bond thing.

11 Okay. So I think that's everything I want to talk
12 about.

13 MR. WU: I can do this in open court, too, but I
14 was going to ask Your Honor, with regard to the documents
15 for valuation encumbrance on the assets, as well as any
16 identifier information for the sureties, I have a slight
17 concerned if it has to be filed with the Court, there's some
18 privacy concerns.

19 THE COURT: You can file a motion for leave to
20 file it under seal. I don't have any problem with that.

21 MR. WU: All right. That's fine.

22 THE COURT: Certainly, any account numbers have to
23 be blacked out under our court rules in the public docket.
24 Don't put the surety's personal identification, the
25 addresses, the Social Security numbers, the birth dates;

1 they all have to be blacked out. So be careful of that.

2 I'm not seeking to invade their privacy, and that's fine.

3 MR. WU: Very well. And so Your Honor would want
4 that independently of what we're providing to the government?

5 THE COURT: If you provide it to the government
6 and the government agrees that it's sufficient, then I don't
7 think it all needs to be docketed. However, if the
8 government and you don't agree, but think this is sufficient
9 and you're filing a motion with me to do it on that basis,
10 then I need the information.

11 MR. WU: I understand. Thanks.

12 THE COURT: All right. Thank you.

13 MR. ANDRES: Thank you, Judge.

14 (Open court:)

15 THE COURT: All right. Is there anything further
16 I need to take up today on behalf of the government?

17 MR. ANDRES: Not from the government, Judge.
18 Thank you.

19 THE COURT: Anything for Mr. Manafort?

20 MR. DOWNING: No, Your Honor.

21 THE COURT: Anything for Mr. Gates?

22 MR. WU: Yes, Your Honor. A few things. One is
23 in anticipation of your future ruling, the rest of the legal
24 team for Mr. Gates is in New York. So we would ask you to
25 consider allowing him to go to New York for those legal

1 meetings. I believe the original conditions allowed him to
2 travel for meetings with counsel as well. So I just flag
3 that now.

4 THE COURT: That was to leave his house, it wasn't
5 to leave the area.

6 MR. WU: I understand.

7 THE COURT: But you can put what you want to put
8 into what you propose to me. If he needs to travel to
9 New York to meet with his attorneys, that may be permissible,
10 if everything else is agreed to. But that may also be
11 something that he has to notify pretrial about before he goes.

12 MR. WU: Yes, Your Honor. And on that point, in
13 the meantime, until we can get the joint proposal
14 straightened out with the government, would the Court allow
15 him, for things like family activities or a business meeting
16 domestically, to ask pretrial services and give them the
17 same type of specificity he gave over the weekend, with a
18 schedule and location?

19 THE COURT: At this point I think the fact of the
20 current conditions is what is getting us to work with
21 alacrity on putting together the financial information. And
22 you're asking me and pretrial to micromanage his life on an
23 ongoing basis. I think we can get this all done very
24 quickly and we should probably do that.

25 If there's somewhere he has to go that isn't one

1 of the places that is specifically listed, and he has to do
2 it in the next two days, he can request the Court's
3 permission to do it.

4 MR. WU: Very well, Your Honor.

5 Court's indulgence for one moment.

6 (Off-the-record discussion between Mr. Wu and
7 Defendant Gates.)

8 MR. WU: Very well, Your Honor. Thank you.

9 THE COURT: All right. I'll see everybody on
10 December 11. And I will read anything I get in the
11 meantime.

12 Thank you.

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2 CERTIFICATE OF OFFICIAL COURT REPORTER
3
45 I, JANICE DICKMAN, do hereby certify that the above
6 and foregoing constitutes a true and accurate transcript of
7 my stenograph notes and is a full, true and complete
8 transcript of the proceedings to the best of my ability.

9 Dated this 7th day of November, 2017.

10
11 /s/ _____
1213 Janice E. Dickman, CRR, RMR
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